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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,621	10/20/2000	Eitan T. Wiener	2640/OH058	8869

7590
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Darby & Darby, P.C.
805 Third Avenue
New York, NY 10022

03/23/2006

EXAMINER

DOSTER GREENE, DINNATIA JO

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/693,621

Applicant(s)

WIENER ET AL.

Examiner

Dinnatia Doster-Greene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> . |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the title is non-descriptive.

Appropriate correction is required.

2. The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5, 6 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kellogg et al. (U.S. Patent No. 5,897,569). Kellogg discloses an

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ultrasonic surgical system including a controllable ultrasonic energy generator, a hand piece with a blade that is vibrated at an ultrasonic resonance frequency rate by energy from the generator, and a switch for indicating to the generator the amplitude and frequency of the energy supplied to the hand piece, said ultrasonic generator comprising:

- an analog input drive signal generator (30) (col. 3, lines 9-18) which generates an input drive signal having an amplitude and frequency;

- an amplifier (30-5) (col. 8, lines 29-31) which receives the analog input drive signal and supplies the energy to the hand piece through a line in response thereto;

- a current sensor (30-15) (col. 8, lines 47-51) that senses the current in the line and produces a current signal related thereto;

- a comparator (150) (col. 9, lines 28-32) which compares the current signal to a variable preset current value and produces a difference signal that is applied to the analog input drive signal generator so as to change the amplitude of the drive signal to cause the current signal to match the preset value;

- a voltage sensor (E1) (col. 8, lines 54-55) which senses the voltage on the line and produces a voltage signal related thereto;

- a digital phase detector (30-6) (col. 8, lines 29-31) which compares the current signal to the voltage signal and generates a digital phase code related to the phase difference between them;

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a digital impedance detector (col. 10, lines 54-59) which compares the ratio of the voltage signal to the current signal and generates a digital impedance code related thereto;

a digital controller (166) (Fig. 3) which receives the digital phase code and the digital impedance code and produces a digital frequency code in response thereto which is at a frequency which represents the resonance of the hand piece; and

a direct digital synthesis circuit (oscillator 134) (col. 9, lines 8-10) for converting the digital frequency code to an analog frequency signal that is applied to the analog input drive signal generator so as to maintain the frequency at the resonance frequency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellogg in view of Honda (U.S. Patent No. 6,066,135). As discussed above, Kellogg

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discloses the claimed invention with the exception of a controlled power supply for an amplifier. However, Honda, which also relates to an ultrasonic operating apparatus, teaches in Figs. 1, 12 and 13 that it is known to provide a controlled power supply for amplifier. Thus, it would have been obvious to one skilled in the art at the time of the invention to modify the amplifier of Kellogg with the power controlled amplifier of Honda for the purpose of ensuring a stabilized performance and improve the safety of the ultrasonic operating apparatus as taught by Honda (col. 2, lines 44-50).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

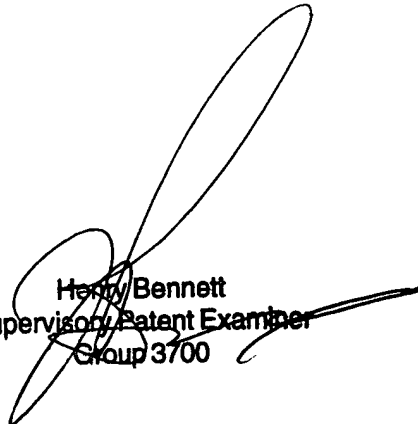
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Henry Bennett
Supervisory Patent Examiner
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